IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.71400-M of 2006
Date of Decision:- 19.07.2007

Rajender Kumar ....Petitioner(s)

through
Mr.Sandeep Kotla, Advocate

vs.

State of Haryana & ors. ....Respondent(s)

through
Mr.Tarun Aggarwal, Sr.DAG, Haryana.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

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SURYA KANT, J. (ORAL)

The prayer in this petition is to direct the police-authorities to register an F.I.R. against respondent Nos.3 to 5 and get the same investigated from the senior Police Officer.

The petitioner's allegations are that on 4.11.2006, firstly, he was falsely implicated in an excise case regarding sale of illicit liquor and was taken into custody. He was given merciless beatings by respondents No.3 to 5, who are the police officials of District Panipat. After the petitioner was released in the late night, he was unable to walk or stand and was, therefore, shifted to the Civil Hospital, Panipat where he was medico legally examined. As per the medico legal report issued by Dr.Anuradha Aggarwal, Medical Officer of the said hospital, the petitioner was found to have received four injuries including fracture and lacerated wound on right forearm as well as on the left hand.

The petitioner made a complaint to the Superintendent of Police, Panipat on 7.11.2006 to take action against the erring police officials, however, no head was paid to his complaint.

It appears that the petitioner has also represented to the higher police authorities and other State functionaries as well. Instead of taking action on the petitioner's complaint, it is alleged that he was involved in series of criminal cases, most of which are under the Excise Act only.

Notice of motion was issued and in response thereto, M.S.Sheoran, IPS, Superintendent of Police, Panipat has filed a reply which is surprisingly on behalf of respondents No.3 to 5 also.

All out efforts have been made to defend respondents No.3 to 5 and to paint and project the petitioner as a hardened criminal. It is also claimed that the petitioner's allegations regarding giving him merciless beatings which resulted into several injuries, were investigated into by SHO, Police Station, Samalkha. All his allegations were found to be incorrect.

After hearing learned counsel for the parties, I am satisfied that the so-called enquiry conducted by the respondents is apparently a mere eye-wash. There is no answer as to how and in what circumstances, the injuries were suffered by the petitioner especially a fracture within few hours of his release from the police custody.

There is no denial to the fact that F.I.R.No.397 under Sections 61/1/14 of the Excise Act was registered against the petitioner on 4.11.2006 i.e. the date of occurrence.

It may be true that the petitioner is a professional offender and is involved in more than one case. It, however, does not mean that his

fundamental rights guaranteed under Article 21 of the Constitution of India can be taken away.

For the reasons afore-stated, this petition is allowed to the extent that the Director General of Police, Haryana is directed to entrust the enquiry to an officer not below the rank of Deputy Superintendent of Police, who shall look into the allegations made by the petitioner against respondents No.3 to 5 and shall conclude the fact finding enquiry within a period of three months from the date of receipt of certified copy of this order.

The necessary action, if any, required to be taken pursuant to the said enquiry, shall also follow thereafter.

July 19, 2007 **(SURYA KANT)**
poonam **JUDGE**